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November 16, 2020

VIA ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk / Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

Re: Enrique McMillon, Jr. v. Duke Energy Carolinas, LLC
Docket No. 2020-242-E

Dear Ms. Boyd:

I am filing this letter on behalf of Duke Energy Carolinas, LLC (the “Company”) to respond to and rebut, to the extent necessary under S.C. Code Ann. § 58-3-260, the contents of Complainant’s email dated November 14, 2020 in which Complainant alleges that an *ex parte* communication occurred between the Company and the Commission. No such communication occurred. The only communications the Company has had with any member or employee of the Commission relevant to this proceeding are those electronically filed in this docket.

To support his allegation of an *ex parte* communication, Complainant’s email states that—according to Mr. McMillon’s review of police bodycam footage—an employee of the Company stated “the Commission has said we are tired of the complaints.” The employee’s statement was a paraphrase of a sentence from Order No. 2020-519 in which the Commission concluded “It is clearly time for this litigation to end.” The Commission made this conclusion after reciting the procedural history from the three prior complaint proceedings initiated by Complainant:

Mr. McMillon’s request for rehearing must be denied because of the simple fact that the same facts and circumstances have been presented and adjudicated adversely to Mr. McMillon in three separate Commission Dockets: Docket Nos. 2018-379-E, 2019-230-E and 2019-331-E. As we held in Order No. 2020-342, the legal doctrine of res judicata bars subsequent litigation between identical parties where the claims arise out of the same transaction or occurrence that was the subject of the prior litigation between those same parties. The



doctrine bars litigants from raising any issues which were adjudicated in the prior action as well as any issues which might have been raised in the prior action. The Complaint in the present Docket is the third complaint raised by the same individual, against the same utility, arising from the same transaction or occurrence. We held in Order No. 2020-342 that the doctrine of res judicata applies, and Mr. McMillion's request for rehearing has not convinced us otherwise. It is clearly time for this litigation to end. Accordingly, Mr. McMillion's request for rehearing is denied. We reaffirm the provisions of Order No. 2020-342, and the dismissal of Mr. McMillion's Complaint for the third time.

Order No. 2020-519 at 2-3, Docket No. 2019-331-E (Aug. 7, 2020) (emphasis added).

The Company believes there is no actual need to delay the Commission's consideration of the Company's motion to dismiss the complaint in this case. However, if the Commission decides to delay action on the motion to dismiss, the Company respectfully requests that the Commission hold the filing deadlines and hearing date in abeyance until such time as it has ruled on the Company's motion.

By copy of this letter, we are providing a copy of same to the parties of record.

Kind regards,

Sam Wellborn

sjw/tch

CC: Parties of Record (via email)
Katie M. Brown, Counsel (via email)